IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO: 25053 of 2004

Between:

A.Ramesh Rao S/o Krishnaji Rao
Kamalanagar, Ananatapur Town and district.

..... PETITIONER

AND

1 The Depot Manager, APSRTC.,
Ananatapur Depot, Ananatapur District.
2 The Principal Secretary Labour Employment Tranining & Factories

(lab-I) Department , Government of AP., Secreatriate Buildings

Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ order or direction more particularly one in the nature of Writ of Mandamus declaring the in action of the 2nd respondent in not referring the matter to the Labour Court for adjudication in spite of receiving the failure report under section 12(4) of Industrial Disputes Act from the Assistant Commissioner, Anantapur as illegal, arbitrary, unjustified and unconstitutional and consequently direct the 2nd respondent to refer the matter to labour court for adjudication .

Counsel for the Petitioner: MR.A.RAMA RAO

Counsel for the Respondent No.1: MR.P.VINAYAKA SWAMY

Counsel for the Respondent No.2: GP FOR LABOUR

The Court at the stage of admission made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the inaction on the part of the second respondent in referring the dispute that was raised by the Union on behalf of the petitioner with reference to deferment of annual grade increments for a period of three years with cumulative effect besides treating the suspension period as not on duty.

2. According to the petitioner, he was appointed as a Driver and while he was discharging his duties on the route Anantapur to Tarimale, in the outskirts of the Anantapur Town, a boy aged 10 years came across the road, as a result of which the accident occurred, and therefore, disciplinary proceedings were initiated against the petitioner. After conducting an enquiry, a punishment of deferment of annual grade increments for a period of three years with cumulative effect was imposed on the petitioner. Aggrieved by the said action, the petitioner, through its Union represented by the Secretary of the APSRTC Union, raised an industrial dispute under Section 10 of the Industrial Disputes Act (for short 'the I.D. Act) before the Assistant Commissioner of Labour. As there was no conciliation, that dispute was referred to the Government for making a reference under Section 10 of the I.D. Act to the Labour Court and the said communication was given on 30-09-2002. But the second respondent did not pass any order. Therefore, the petitioner has come up with the present writ petition.

3. On behalf of the second respondent a counter is filed opposing the claims of the petitioner. It is contended that as the petitioner has sought for a reference after a period of six years the Government did not take any action, and therefore, sought to dismiss the writ petition.

4. Heard both sides and considered the material on record. When once a reference was made to the second respondent by the competent authorities under the I.D. Act, it is for the second respondent to pass appropriate orders and he cannot sit over the matter and represent that the matter is barred by time or there are any laches on the part of the petitioner. Even if such issues

are there, it is always open to the Labour Court to consider those issues. Therefore, the inaction on the part of the second respondent is not proper and just.

5 . Accordingly, the writ petition is disposed of directing the second respondent to refer the dispute as sought for by the petitioner as per the communication given by the competent authorities under the Act, within a period of six weeks from the date of receipt of a copy of this order for adjudication. No order as to costs.

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S.ANANDA REDDY, J

07th June, 2005

SKM

To

1 The Depot Manager, APSRTC.,
Ananatapur Depot, Ananatapur District.
2 The Principal Secretary Labour Employment Tranining & Factories

(lab-I) Department , Government of AP., Secreatriate Buildings

Hyderabad.

3 Two C.Cs. to G.P. for Labour, High Court Buildings, High Court of

A.P., Hyderabad (OUT)

4 2 CD copies

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